DIRECTIVE

JOB TRAINING PARTNERSHIP ACT

Number: D97-13
Date: January 22, 1998
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TO: SERVICE DELIVERY AREA ADMINISTRATORS
PRIVATE INDUSTRY COUNCIL CHAIRPERSONS
JTPD PROGRAM OPERATORS
EDD JOB SERVICE OFFICE MANAGERS
JTPD STAFF

SUBJECT: FUNDS UTILIZATION FOR TITLE II FUNDS

EXECUTIVE SUMMARY:

Purpose:

This Directive establishes state policy and procedures for the recapture and reallotment of underobligated or underexpended Job Training Partnership Act (JTPA) Title II funds.

Scope:

Funds utilization requirements are applicable separately to the Title II-A 77 percent, and Title II-C 82 percent programs.

Effective Date:

This Directive is effective on its release date.

REFERENCES:

- JTPA Section 109
- 20 CFR Parts 626.5 and 627.410

STATE-IMPOSED REQUIREMENTS:

This document contains state-imposed requirements. These requirements are in ***bold italic*** print.

FILING INSTRUCTIONS:

This Directive supersedes JTPA Directive D95-11, dated August 17, 1995.

BACKGROUND:

In April 1986, the State Job Training Coordinating Council (SJTCC) established a policy intended to recapture and redistribute unspent discretionary funds. In April 1989, in keeping with the Governor's goal of achieving full and effective use of all resources, the SJTCC adopted a funds utilization policy for Title II-A 78 percent, Title II-A 3 percent Older Worker, and Title III funds. In February 1992, the policy was expanded to include Title II-B funds.

In April 1992, the policy was further expanded to link use of funds and performance standards to further encourage full and effective utilization of JTPA funds allocated to the state. As a result, Service Delivery Areas (SDA) that were subject to recapture of their 78 percent funds in two consecutive years, had their subsequent year incentive funds reduced. (Program Year (PY) 1991-92 was the base [i.e., first] year upon which to track two consecutive years of recapture.)

In September 1992, Congress passed the 1992 JTPA Reform Amendments which made significant changes to the Title II-A 78 percent program. The 78 percent program was divided to create the Title II-A 77 percent adult program and the Title II-C 82 percent youth program. In addition, the Amendments included criteria designed to encourage maximum use of Title II-A 77 percent and Title II-C 82 percent funds. The JTPA Section 109 mandates the recapture, at the end of the first program year, of unobligated funds that exceed 15 percent of that program year's allocation. It also mandates the reallocation of the recaptured funds to those SDAs "that have the highest rates of unemployment for an extended period of time and to those with the highest poverty rates."

In March 1994, the SJTCC adopted a policy limiting the reallocation of recaptured Title II-A 5 percent Older Worker funds to no more than 10 SDAs that have demonstrated effectiveness in providing services to older individuals. This position was adopted in an effort to provide an incentive for good performance as well as to promote program coordination.

In September 1997, the Second Appellate Court District ruled in the Private Industry Council of Southeast Los Angeles vs. the Employment Development Department, that the state-imposed 80 percent expenditure requirement will no longer apply to Title II-A, 5 percent Older Worker or Title II-B Summer Youth funds.

POLICY AND PROCEDURES:

It is the responsibility of each SDA to ensure that funds are obligated and expended appropriately at the level set by the Act. The Job Training Partnership Division (JTPD) will work with SDAs on a case-by-case basis to assist them in resolving any problems with expenditure of funds. An SDA should request technical assistance early in the program year so appropriate steps can be taken to increase obligation and/or expenditure levels.

To facilitate the achievement of the following requirements, the JTPD has:

- Established an early warning system to identify SDAs experiencing obligation or expenditure problems.

- Established requirements to support uniform and accurate fiscal reporting policies and procedures.

- Established a full range of technical assistance to help SDAs that are experiencing problems in maintaining a proper level of obligation or expenditure.

I. RECAPTURE PROVISIONS

A. TITLE II-A 77 PERCENT AND TITLE II-C 82 PERCENT

The SDAs are required to obligate at least 85 percent of their program year allocation by the end of the program year (JTPA Section 109(a)). §626.5 of the Final Rule states:

> Obligations means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a funding period that will require payment by the recipient or subrecipient during the same or a future period.

For these programs, allocations to an SDA include:

- The allocation for that program year;

- Plus funds transferred in from another fund source (i.e., Title II-B transferred to Title II-C 82 percent); AND

- Less funds transferred out to another fund source (i.e., from Title II-A 77 percent to Title II-C 82 percent).

Funds utilization analysis will be based on fourth quarter expenditure reports due to the JTPD by August 30. Any unobligated funds that exceed 15 percent of the program year's allocation are considered excess and will be returned to the state by means of a reduction, via unilateral subgrant modification, to that program year's allocation. For example, excess unobligated PY 1994-95 funds are deobligated from the PY 1994-95 allocation.

It is important to note that any such deobligation will also reduce the amount of funds available for administration expenditures for that subgrant. <u>The reduction may create an overexpenditure in administration and result in a cost compliance issue</u>. Cost compliance is measured at the end of the three year life of the funds.

B. TITLE II-A 5 PERCENT OLDER WORKER FUNDS

The Title II-A 5 percent Older Worker funds are not subject to any first year funds utilization requirements.

C. TITLE II-A AND TITLE II-C 8 PERCENT

Title II-A and II-C 8 percent State Education Coordination and Grants (SECG) funds that are allocated to SDAs, based on welfare caseloads, i.e., the portion available for California Work Opportunities and Responsibilities for Kids (CalWORKs) basic education services, are subject to the requirements of JTPA Section 109.

The California Department of Education (CDE), which administers the SECG CalWORKs education funds, will monitor the status of the 8 percent funds and will notify SDAs which have not obligated at least 85 percent of their program year allocation of 8 percent CalWORKs funds by the end of the program year. Unobligated funds in excess of 15 percent will be reallocated to those SDAs which have obligated at least 85 percent of their funds, to the extent that those SDAs are able to use the funds for additional CalWORKs basic education services.

D. TITLE II-B

The Title II-B funds are not subject to any first year fund utilization requirements.

II. EFFECT OF UNDERUTILIZATION ON INCENTIVE AWARDS

An SDA which underobligates either the Title II-A 77 percent funds or the Title II-C 82 percent funds for two consecutive program years, will experience a reduction in its subsequent program year incentive award (if any is due) for that fund source. The reduction will be proportionate to the percentage of recapture of said funds in the second of the two consecutive years. For example: if an SDA has funds recaptured for underobligations of Title II-A 77 percent funds in PY 1993-94 and PY 1994-95; the Title II-A 5 percent incentive award issued in PY 1995-96 (for the performance in PY 1994-95) will be reduced. If the SDA obligated 70 percent of the Title II-A 77 percent funds in year one and 75 percent in year two, the Title†II-A 5 percent incentive monies due the SDA in the subsequent year will be reduced by ten percent, equal to the underobligation in the second year. These funds will then be distributed among the rest of the eligible SDAs.

III. DEOBLIGATION

SDAs may voluntarily deobligate Title II-A or Title II-C funds at any time but are encouraged to do so as early in the program year as possible. This will allow for the timely reallocation of funds to other SDAs that need additional monies.

IV. REALLOCATION

A. TITLE II-A 77 PERCENT AND TITLE II-C 82 PERCENT

In order to qualify for reallocated funds, the SDAs must meet the 85 percent minimum obligation. In addition, an SDA must meet at least one of the two federal eligibility requirements per JTPA Section 109(3):

1. Highest unemployment rate: ***An SDA will be considered as having the highest unemployment rate if its average unemployment rate for the program year is at least 125 percent of the average unemployment rate for the state in the program year subject to recapture.***

2. Highest poverty rate: ***An SDA will be considered as having the highest poverty rate if its poverty rate for the program year is at least 125 percent of the state's poverty rate for the program year subject to recapture.***

Note: Both of the above are calculated by the Employment Development Department's Labor Market Information Division based on prior year and current year information used for determining the original allocation.

Additionally, reallocation will occur only if the SDA desires the additional funds. The JTPD will survey eligible SDAs and implement unilateral subgrant modifications to reallocate funds based on survey results. Funds must be retained in the year of allocation, i.e., recaptured PY 1994-95 funds will be reallocated to the PY 1994-95 subgrant.

B. TITLE II-A 5 PERCENT OLDER WORKER FUNDS

Title II-A 5 percent Older Worker funds will not be subject to recapture.

C. TITLE II-B

Title II-B Summer Youth Employment and Training Program funds will not be subject to recapture.

V. WAIVER

No waiver shall be granted to the 85 percent obligation requirement for Titles II-A 77 percent and Title II-C 82 percent programs.

ACTION:

It is the SDA's responsibility to establish, maintain and exercise ongoing controls to ensure compliance with these requirements.

INQUIRIES:

Please direct questions about this Directive to Diane Bonar of the Data Analysis Unit, at (916) 654-8305.

/S/ BILL BURKE
Acting Assistant Deputy Director